

1 MR. HONIG: No, I'm, I'm sorry.

2 JUDGE STEINBERG: Yeah, just --

3 MR. HONIG: We'll --

4 JUDGE STEINBERG: -- bring them back.

5 MR. HONIG: I mean, having identified them and then  
6 moving them, and I won't do anything --

7 JUDGE STEINBERG: That's fine.

8 MR. HONIG: Okay.

9 JUDGE STEINBERG: You may do what you wish.

10 MR. HONIG: But that's -- but I won't ask about  
11 conversations. I just -- do you recognize this, and then I'll  
12 move it. And I'll do it quickly, understanding what the  
13 ruling will, will be.

14 JUDGE STEINBERG: Well, the ruling went to  
15 conversations with Mr. Miller and any review by Mr. Miller. I  
16 mean, that doesn't limit other questions you might have about  
17 the documents.

18 MR. HONIG: No. I, I don't have other questions --

19 JUDGE STEINBERG: Okay.

20 MR. HONIG: -- about the documents. That was the  
21 only reason that I had them.

22 JUDGE STEINBERG: Okay. Fair enough. We'll go off  
23 the record until Ms. Cranberg comes back.

24 (Off the record.)

25 (On the record.)

1 (Whereupon, the witness reentered the courtroom.)

2 JUDGE STEINBERG: We're back on the record. Ms.  
3 Cranberg's resumed the hot seat and -- Mr. Honig? That's a  
4 little judge's joke.

5 MR. HONIG: Okay. Well, Ms. Cranberg, if I recall  
6 you -- before you, you left the witness room, welcome back,  
7 you identified Exhibit 53. And at this time, Your Honor, I'd  
8 like to move Exhibit 53 into evidence.

9 MS. SCHMELTZER: Objection for the reasons we  
10 previously stated.

11 MS. LADEN: Your Honor, we have no objection. The  
12 objections that I -- I did have an objection, as I stated, to  
13 the question that was asked about the participation of Mr.  
14 Miller, but I have no objection to the receipt of this  
15 document.

16 JUDGE STEINBERG: Okay. Tell -- just explain the  
17 purpose for which it's being offered. Is it basically to  
18 track the history of, of how certain statements may have  
19 gotten into formal pleadings?

20 MR. HONIG: No. It's offered only for the purpose  
21 of, of establishing Mr. Miller's contacts -- or Mr. Miller's  
22 awareness or involvement in the litigation process at the time  
23 and for no other purpose.

24 MS. LADEN: If that's the reason it's offered then  
25 we do object to it, Your Honor. The reason I had no objection

1 is that I believe the third paragraph, it talks about the --

2 JUDGE STEINBERG: Of which, of which page?

3 MS. LADEN: Of page 2. The third paragraph of the  
4 letter discusses -- references a discussion about the knowl-  
5 edge of classical music, which is a subject that is addressed  
6 in footnote 2 of Ms. Cranberg's testimony. I thought that  
7 paragraph indicated -- because the discussion was relevant to  
8 the statements made in footnote 2. And for that reason I have  
9 no objection to it. I believe it's relevant to that. But if  
10 it's being offered for the other purpose, then I, I do object.

11 MR. HONIG: Your Honor, to be honest with you, I, I  
12 neglected to note the relevance of that point and I, I cer-  
13 tainly don't want the Bureau to go to the trouble of making it  
14 their exhibit. I agree it's relevant for that reason and  
15 would therefore offer it for both reasons.

16 MS. SCHMELTZER: Your Honor, if that's the case I  
17 think only that page should come into the record and not the  
18 rest.

19 JUDGE STEINBERG: Okay.

20 MR. HONIG: Well, I don't think the, the page makes  
21 sense without the rest of it.

22 JUDGE STEINBERG: Is there a reference to, to the  
23 discussion in the remaining pages?

24 MS. LADEN: No, Your Honor.

25 JUDGE STEINBERG: Okay.

1 MR. HONIG: On page 1 in the middle.

2 MS. SCHMELTZER: Yeah, there is on page, page 3777.

3 There is.

4 JUDGE STEINBERG: Okay. Circle number 3?

5 MS. SCHMELTZER: Right. The first page should be  
6 excluded.

7 MR. HONIG: So --

8 JUDGE STEINBERG: Let me just receive pages 2  
9 through 5 and exclude page 1. Page 1's rejected for the  
10 reasons that we discussed while Ms. Cranberg wasn't here and  
11 -- I'm trying to keep Ms. Cranberg in suspense. That, that  
12 way she'll -- you know, keep you in suspense and keep you on  
13 your toes. So, page 1 is rejected and pages 2 through the end  
14 are, are received for the purpose explained by Ms. Laden. And  
15 if there are other similar types of statements, of course it  
16 can be used for that, but I'm -- they're received specifically  
17 for the, for the type of material Ms. Laden was talking about.

18 (Whereupon, the document marked for  
19 identification as NAACP Exhibit  
20 No. 53 was received into evidence  
21 subject to the rulings hereto.)

22 MR. HONIG: Now, if you would turn to --

23 JUDGE STEINBERG: Wait a second. I've got to  
24 bookkeeping.

25 MR. HONIG: Oh, I'm sorry.

1 JUDGE STEINBERG: Please. So, that was No. 53.

2 Okay. Let's go to the next one.

3 MR. HONIG: Okay. If you would place before your-  
4 self NAACP Exhibit 54? Do you recognize this, this document?

5 WITNESS: I'm not sure I recognize the circled  
6 number, page 1, the letter from Dennis Stortz to Reed Miller.  
7 The rest of the document looks like a filing that was made at  
8 the FCC, although I note that some of the pages have some  
9 marked edits. So, this would not appear to be the final  
10 version of whatever was filed at the Commission.

11 MR. HONIG: And these are marked edits in your  
12 handwriting?

13 WITNESS: No, I don't think so.

14 MR. HONIG: Do you recognize the handwriting or  
15 handwritings? It looks like there may have been more than one  
16 person.

17 WITNESS: At circled page 7 the word "not" with two  
18 question marks is written on. It looks like it might be Reed  
19 Miller's handwriting but I'm not certain, and the remaining  
20 notes I don't even have a guess.

21 MR. HONIG: Now, and, and what was the purpose of  
22 this document?

23 JUDGE STEINBERG: Identify the pages, because there  
24 are at least three.

25 MR. HONIG: Actually, starting with page, starting

1 with page 2 through 10.

2 MS. SCHMELTZER: What is the question?

3 MR. HONIG: The question is what is the purpose of  
4 pages -- of -- would you agree that pages 2 through 10 are,  
5 are a draft of a possible filing with the FCC?

6 WITNESS: Either a draft or the final filing with  
7 the FCC. Right.

8 MR. HONIG: And would you identify the purpose,  
9 please?

10 WITNESS: Yes. As I recall, KFUD received a letter  
11 from the EEO Branch at the FCC requesting additional informa-  
12 tion about the station's EEO program and practices, and this  
13 letter was -- or, or a subsequent final version of this letter  
14 was filed with the Commission Response to that inquiry.

15 MR. HONIG: Okay. Your Honor, I would like to move  
16 NAACP Exhibit 54 into evidence.

17 MS. SCHMELTZER: Your Honor, I think if this docu-  
18 ment was going to be offered Mr. Stortz should have been  
19 questioned about it and he wasn't. It was Mr. Stortz that  
20 sent this document to Reed Miller. Counsel has not  
21 established through Ms. Cranberg that she's familiar with this  
22 document. She didn't know whether it was a draft or the final  
23 filing. And I don't see any relevance to it.

24 JUDGE STEINBERG: Ms. Laden?

25 MS. LADEN: I don't think it's relevant, especially

1 since the witness does not acknowledge being familiar with it  
2 -- with the document.

3 JUDGE STEINBERG: Okay. Exhibit 54 is rejected.  
4 (Whereupon, the document marked for  
5 identification as NAACP Exhibit  
6 No. 54 was rejected.)

7 MR. HONIG: You could turn next to NAACP Exhibit 55.

8 WITNESS: Okay.

9 MR. HONIG: Now, this is presented in the order the  
10 pages appeared in document production. If you look at page 14  
11 you'll see "BCC with enclosures Dennis Stortz, Marcia  
12 Cranberg, Esquire."

13 MS. SCHMELTZER: If we look at what?

14 MR. HONIG: Page --

15 JUDGE STEINBERG: Circled page 14. The last page of  
16 the exhibit.

17 MR. HONIG: Now, I was --

18 MS. SCHMELTZER: And it does --

19 MR. HONIG: -- a little puzzled because it, it  
20 appears that that page ought to be the -- ought to go right  
21 after what is page 2. You'll see that page 2 ends with "with  
22 enclosures, David Honig, Herbert Henderson." I'm speaking of  
23 page 2 of the exhibit. And the page which is number 14 within  
24 the exhibit is really page 2 of that same May 12th letter. Am  
25 I correct?

1           WITNESS: It appears to be. The letter is not from  
2 me, but it certainly appears that circled page 14 of the  
3 exhibit should follow circle page 2 of the exhibit.

4           MR. HONIG: Okay. Now, do you, do you recognize  
5 the, the letter which consists of -- in -- within pages number  
6 2 and 14 within this exhibit?

7           WITNESS: Yes. I recognize it.

8           MR. HONIG: And what is the relationship between  
9 that letter and the remaining -- the other pages within this  
10 exhibit?

11          WITNESS: Well, it appears to be a cover letter to a  
12 filing made with the FCC, the filing consisting of circle  
13 pages 3 through 13 of the exhibit.

14          MR. HONIG: And did you receive the BCC that's  
15 referred to?

16          WITNESS: Yes, I did.

17          MR. HONIG: Have you seen the letter which is page 1  
18 of the exhibit before?

19          WITNESS: I don't recall seeing it. I certainly  
20 might have seen it. I believe I've seen all of the documents  
21 in Mr. Miller's files that were turned over to the NAACP in  
22 this proceeding.

23          MR. HONIG: But you're generally familiar with the  
24 -- with those materials in Mr. Miller's file?

25          WITNESS: Yes, I am.



1 MR. HONIG: And what is the relationship between the  
2 letter which is page 1 of NAACP Exhibit 55 and, and the  
3 remainder of the exhibit?

4 MS. SCHMELTZER: Your Honor, if I may just say, this  
5 is a final draft. It's already in the record as Mass Media --

6 MR. HONIG: Your Honor, counsel is testifying.

7 JUDGE STEINBERG: Wait.

8 MS. SCHMELTZER: Well, as Mass Media Bureau Exhibit  
9 6, and I don't know why we're going through this exercise.

10 JUDGE STEINBERG: Well, let Mr. Honig get the  
11 answers, and then he can offer it. Are you going to offer it?

12 MR. HONIG: Yes.

13 JUDGE STEINBERG: And then we'll take objections.  
14 The question -- pending question was: do you know the rela-  
15 tionship between page 1 of No. 55 and the remainder of the  
16 document?

17 WITNESS: I don't have independent knowledge. I can  
18 surmise.

19 JUDGE STEINBERG: Don't -- I don't want you to  
20 surmise.

21 MR. HONIG: Are, are you --

22 WITNESS: I should add I believe that I was on  
23 vacation and out of the office during this period, so that I  
24 would not have been talking directly to Dennis Stortz in  
25 connection with this page 1.

1 MR. HONIG: I see. And having been on vacation out  
2 of the office, would Mr. Miller have been handling this matter  
3 in your absence?

4 WITNESS: Yes.

5 MR. HONIG: Okay. I offer Exhibit 55 into evidence.

6 MS. SCHMELTZER: Your Honor, first of all, Mr.  
7 Miller was not questioned about this document. So -- and, so,  
8 I feel that page 1 is totally irrelevant and it would be  
9 unfair to introduce that since Mr. Miller did not have an  
10 opportunity to discuss it. With respect to the remaining  
11 pages, 2 through the end, this appears to be what would be  
12 considered a final -- a copy of the final draft, and the  
13 actual document, and I can't see any differences, are in the  
14 record as Mass Media Bureau Exhibit 6. So, I would object to  
15 the admission of this document as irrelevant and cumulative  
16 evidence. And, and Mr. -- and, in addition, Mr. Stortz was  
17 not examined about this document and could have been. He was  
18 here earlier. The, the cover letter is from Mr. Stortz to  
19 Reed Miller.

20 JUDGE STEINBERG: Ms. Laden?

21 MS. LADEN: Your Honor, I don't -- the, the witness  
22 is not familiar with this document, and so for that reason I  
23 think I'm going to object to it. I do want to say at this  
24 point that I'm going to have one or two questions about some-  
25 thing specific in these two documents.

1 JUDGE STEINBERG: Which two?

2 MS. LADEN: Exhibit 54, which was just rejected, and  
3 Exhibit 55. I -- if the witness has a recollection then and,  
4 and it becomes relevant then, then I would re-offer them as  
5 our exhibits. But at this point I would object to them.

6 MR. HONIG: Your Honor?

7 JUDGE STEINBERG: Were there -- let me just ask Ms.  
8 Laden. Were there changes between this and what Ms.  
9 Schmeltzer has called a final draft and what was filed with  
10 the Commission?

11 MS. LADEN: Yes, Your Honor.

12 JUDGE STEINBERG: Okay. On page, page?

13 MS. LADEN: It's, it's -- it relates to the subject  
14 that I was alluding to earlier. Exhibit 54 --

15 JUDGE STEINBERG: The classical music training?

16 MS. LADEN: That's correct. Exhibit 54 at page 8  
17 under Sharisse Bush, letter J.

18 JUDGE STEINBERG: Which, which circle page?

19 MS. LADEN: Page 8. This is Exhibit 54.

20 JUDGE STEINBERG: Oh, okay. I was in the wrong  
21 exhibit.

22 MS. LADEN: The change is between Exhibit 54 and  
23 Exhibit 55. Exhibit 55 is the same as that which was filed  
24 with the Commission.

25 JUDGE STEINBERG: Oh. Okay.

1 MS. LADEN: In this respect. I don't know about the  
2 rest of it.

3 JUDGE STEINBERG: Okay. I'm confused. Mass Media  
4 Bureau Exhibit 6 was the version filed with the Commission?

5 MS. LADEN: That's correct.

6 JUDGE STEINBERG: Mass Media -- I mean, excuse me,  
7 NAACP Exhibit 55, is that the same as was filed with the  
8 Commission?

9 MS. LADEN: I don't -- I do not know that, Your  
10 Honor. With respect to this particular section, which is the  
11 section I'm interested in, yes, it is the same.

12 JUDGE STEINBERG: Okay.

13 MR. HONIG: There's a Commission stamp on page 2 of  
14 NAACP Exhibit 55.

15 MS. LADEN: So, this indeed may be the same as Mass  
16 Media Bureau Exhibit 6.

17 JUDGE STEINBERG: Okay. Now, let's go back to 54.  
18 Okay. Wait a minute. Here's what we're going to do. I think  
19 we're going to -- page 1 is not received. Page 1 of 55 is  
20 rejected. Pages 2 through 14 of 55 are received.

21 MS. SCHMELTZER: This is the official -- isn't this  
22 the --

23 MS. LADEN: I, I, I have --

24 MS. SCHMELTZER: -- a duplicate of Mass Media Bureau  
25 Exhibit 6?

1 MS. LADEN: I have every reason to believe it is  
2 since it has the stamp. It's a little -- the stamp looks a  
3 little different. I believe this is --

4 JUDGE STEINBERG: Might have been another copy.

5 MS. LADEN: This is another copy. It probably --

6 JUDGE STEINBERG: It could have been the, the hard-  
7 back copy.

8 MS. LADEN: Exactly right, Your Honor.

9 MS. SCHMELTZER: So --

10 MS. LADEN: That's what I --

11 MS. SCHMELTZER: I, I don't understand why it's  
12 coming into the record. If it's just a duplicate --

13 JUDGE STEINBERG: Because nobody really knows. Does  
14 anybody -- can anybody really, really -- does anybody know?

15 MS. SCHMELTZER: Well, Mr. -- you know, Mr. Stortz  
16 could have been questioned about this, but, I mean, I think  
17 it's incumbent upon someone to show that this is different  
18 from Mass Media Bureau 6. And to me it looks identical.

19 JUDGE STEINBERG: Somebody wants to go through the  
20 exercise of taking the two of them and holding up against --  
21 holding them up against a light table page by page to --

22 MS. SCHMELTZER: I mean, I have gone through them  
23 page by page and I couldn't find any differences.

24 MR. HONIG: Your Honor, if, if they're identical,  
25 there's no harm done. If they're not identical, you can

1 argue --

2 JUDGE STEINBERG: Let's leave the ruling the way it  
3 is. So, so the ruling was pages 2 through 14 are received and  
4 page 1 is rejected.

5 (Whereupon, the document marked for  
6 identification as NAACP Exhibit  
7 No. 55 was received into evidence  
8 subject to the rulings hereto.)

9 JUDGE STEINBERG: Now, you had one more, Mr. Honig,  
10 No. 56?

11 MR. HONIG: Your Honor, I'm wondering whether it  
12 would go smoother if, if, if I --

13 JUDGE STEINBERG: Well, you've only got one more.  
14 So, let's --

15 MR. HONIG: I know. I was --

16 JUDGE STEINBERG: -- let's --

17 MR. HONIG: -- wondering whether Bureau counsel has  
18 questions, perhaps they can ask them.

19 JUDGE STEINBERG: No. The Bureau counsel will ask  
20 questions in turn.

21 MR. HONIG: Okay. If you would take a look at NAACP  
22 Exhibit 56? Do you recognize this document?

23 WITNESS: I believe I have seen this from Reed  
24 Miller's files and possibly my files.

25 MR. HONIG: And would you explain what this, what

1 | this is?

2 |           WITNESS: I, I'm not certain. I believe -- as I  
3 | recall, a filing was made with the Commission in early to mid-  
4 | May in response to a written Commission inquiry. And shortly  
5 | after that filing was made I believe that Reed Miller received  
6 | a telephone call from possibly Lisa Higgenbotham or another  
7 | staff person in EEO Branch at the Commission requesting a  
8 | clarification with respect to that previous filing. And I  
9 | suspect that this is a draft of a response to that telephone  
10 | inquiry.

11 |           MR. HONIG: Your Honor, Exhibit 56 is offered into  
12 | evidence.

13 |           JUDGE STEINBERG: Let me ask for what purpose?

14 |           MR. HONIG: For the limited purpose of establishing  
15 | Mr., Mr. Miller's awareness and participation at this point  
16 | in, in, in the predesignation proceedings --

17 |           JUDGE STEINBERG: Mrs. Schmeltzer?

18 |           MR. HONIG: -- and no other purpose.

19 |           MS. SCHMELTZER: Objection, Your Honor. Mr. Miller  
20 | was not questioned about this document. I don't think it  
21 | shows his participation. I would note that page 2, while it  
22 | says "Reed..." -- while the note says, "Reed, your thought,  
23 | please. Dennis." If you compare that page to Mass Media  
24 | Bureau Exhibit 7, page 3, what was sent to the Commission is  
25 | exactly what Mr. Stortz wrote here. So, it appears that if

1 Mr. Miller had any thoughts they were not used to change the  
2 document in any way, and I don't think it's relevant and I  
3 don't think that coming in for that purpose is appropriate.

4 JUDGE STEINBERG: Ms. Laden?

5 MS. LADEN: I agree with the objection for the  
6 reasons stated by Ms. Schmeltzer.

7 JUDGE STEINBERG: Okay. Exhibit No. 56 is rejected.

8 (Whereupon, the document marked for  
9 identification as NAACP Exhibit  
10 No. 56 was rejected.)

11 (Off the record.)

12 (On the record.)

13 MR. HONIG: Place before you Exhibit 58.

14 WITNESS: Okay.

15 MR. HONIG: I'm, I'm sorry, Your Honor. I, I've  
16 made a mistake. I don't have questions about NAACP 58. Never  
17 mind. NAACP Exhibit 59.

18 JUDGE STEINBERG: It was interesting reading though,  
19 wasn't it?

20 (Laughter.)

21 JUDGE STEINBERG: 59?

22 MR. HONIG: Yes. Now, do you recognize NAACP  
23 Exhibit 59?

24 WITNESS: Yes. I believe I do. I believe it's a  
25 document I received from Dennis Stortz in connection with our



1 preparation of a response to a Commission letter that we  
2 received in November or December of 1992.

3 MR. HONIG: And you'll see that on page 2 there is a  
4 typed note of, of December 9, 1992, to yourself. Was this  
5 from Dennis Stortz to yourself?

6 WITNESS: Yes, I believe so.

7 MR. HONIG: Do you remember it?

8 WITNESS: I, I know that I have this in my EEO files  
9 for KFUO. I'm not certain that I remember receiving it at the  
10 time.

11 MR. HONIG: Look at the first paragraph.

12 JUDGE STEINBERG: Well, there's a name on the  
13 bottom, the very last line. Do you see that?

14 WITNESS: Yes.

15 JUDGE STEINBERG: Does that refresh your memory? If  
16 it doesn't, it doesn't.

17 WITNESS: Again, I can't remember specifically  
18 receiving it in December of '92, but I feel confident this is  
19 a note to me from Dennis that I received.

20 MR. HONIG: You'll see the, the, the first para-  
21 graph, "Enclosed is a revised version. I tried to strengthen  
22 some of the areas." Mr. Stortz seems to be saying that he was  
23 strengthening an earlier draft, does he not? And was, was he  
24 doing that at your request?

25 MS. SCHMELTZER: Your Honor, I, I don't think that's

1 an appropriate question, what Mr. Stortz seems to be thinking.  
2 This witness isn't competent to answer that.

3 JUDGE STEINBERG: You can ask the witness -- that's  
4 a good point and the objection is sustained. And you can ask  
5 what her understanding of that sentence was.

6 MR. HONIG: All right. What was your understanding  
7 of the sentence, "I tried to strengthen some of the areas."?

8 WITNESS: I'm afraid I don't recall what my under-  
9 standing was at the time when I got this note from Dennis.

10 MR. HONIG: Had you asked Mr. Stortz to strengthen  
11 some areas in an earlier draft?

12 WITNESS: I don't recall doing that. This is a  
13 draft generated by Dennis, not from me, and I don't recall  
14 whether I received a previous draft from Dennis that I asked  
15 him to revise or whether -- or, or what gave rise to this. I  
16 do know that when we received the, the further letter of  
17 inquiry from the Commission, I asked Dennis to review that and  
18 to provide me whatever responsive information he could.

19 MR. HONIG: Your Honor, could we take a break a few  
20 minutes? I, I want to try and sharpen this up and, and hope-  
21 fully it can go fairly smoothly.

22 MS. SCHMELTZER: I don't want to break in the middle  
23 of an exhibit, Your Honor. I think we should --

24 JUDGE STEINBERG: Are you, are you --

25 MS. SCHMELTZER: -- finish this area.

1 JUDGE STEINBERG: Yeah. Why don't you -- are you  
2 almost finished with, with your cross?

3 MR. HONIG: No. I've got a fair amount more. But  
4 in order to do this exhibit crisply, I realize that I need a  
5 few more minutes.

6 MS. SCHMELTZER: I just don't think we should break  
7 in the middle of an exhibit.

8 JUDGE STEINBERG: Let's go off the record.

9 (Off the record.)

10 (On the record.)

11 JUDGE STEINBERG: We're back on the record. Let me  
12 just say I would like, if at all possible, for Mr. Honig's  
13 cross-examination to be completed by 1:00. So, if you could  
14 try to sharpen up your questions I'd appreciate it. You've  
15 been cross-examining since about 10:30 and at 1:00 it will  
16 have been about two-and-a-half hours worth of cross-examina-  
17 tion, which I think gives you an adequate opportunity to ask  
18 whatever needs to be asked. And then we can take a lunch  
19 break and then resume with the Bureau, and then go from there.  
20 So, I'd appreciate it if you'd try your best.

21 MR. HONIG: I think I can.

22 JUDGE STEINBERG: Thank you.

23 MR. HONIG: First, if you could take NAACP Exhibit  
24 59, pages 7 and 8, and place them side by side with Church  
25 Exhibit 4, tab 7, pages 26 through 30 --

1 JUDGE STEINBERG: Are there any specific names you  
2 want --

3 MR. HONIG: Yes.

4 JUDGE STEINBERG: -- her to concentrate on?

5 MR. HONIG: First, did you -- do you need me to  
6 refresh your recollection on what tab 7 was?

7 WITNESS: Well, I see it in front of me. It looks  
8 like the filing that we made, the Opposition to Petition to  
9 Deny in --

10 MR. HONIG: In 1990.

11 WITNESS: -- response to the inquiry in 1990.

12 MR. HONIG: And you, and you testified that, that  
13 tab 7 evolved in part through discussions that you and Mr.  
14 Stortz had to -- concerning the proper presentation to be made  
15 in table 3 of tab 7?

16 WITNESS: That's right.

17 MR. HONIG: Now, that was a filing in 1990. This  
18 was a draft in 1992 of what ultimately became the December 28,  
19 1992, response to the second or third bilingual inquiry, isn't  
20 that right?

21 WITNESS: Yes.

22 MR. HONIG: So -- and if you would look first at the  
23 entry for Tom Koon, the entries for Tom Koon, you'll note that  
24 on the 1990 filing --

25 MS. SCHMELTZER: If I -- Your Honor, I guess I don't

1 -- I'm trying to see where this is in the actual filing --  
2 JUDGE STEINBERG: Okay. In --  
3 MR. HONIG: Page 28.  
4 MS. SCHMELTZER: -- in Exhibit --  
5 JUDGE STEINBERG: It's on -- the entry for Tom Koon  
6 is on page 28 of Attachment 7 to Exhibit -- Church Exhibit 4.  
7 MS. SCHMELTZER: Okay.  
8 JUDGE STEINBERG: And the reference to Tom Koon in  
9 Exhibit 59 is on page 7.  
10 MS. SCHMELTZER: Yeah, but that's table -- I'm  
11 trying to ascertain what in '92 -- where the '92 FCC filing is  
12 that --  
13 JUDGE STEINBERG: Oh, I see.  
14 MS. SCHMELTZER: -- Mr. Honig is referring to.  
15 MS. LADEN: It's -- if I may interject, it's one of  
16 our exhibits.  
17 MS. SCHMELTZER: Right. Which --  
18 MS. LADEN: It, it -- the, the pleading he referred  
19 to. I'm not sure that this is in there, but the, the December  
20 28, 1992, Response is --  
21 MR. HONIG: Bureau Exhibit 14.  
22 MS. LADEN: 14.  
23 MR. HONIG: That's right.  
24 MS. SCHMELTZER: And, Mr. Honig, are you attempting  
25 to say that this information is in that pleading somewhere?

1 JUDGE STEINBERG: Well, let's, let's sharpen the  
2 question, because now I think it's been established that the  
3 Opposition to Petition to Deny was filed in February 1990.  
4 Exhibit 59 appears to be in December '92. Mass Media Bureau  
5 Exhibit -- what was it, 14?

6 MR. HONIG: 14.

7 JUDGE STEINBERG: -- was December '92. Now, what  
8 precisely do you want the witness to compare?

9 MR. HONIG: The -- I don't want her to look at the  
10 1992 filing just yet.

11 JUDGE STEINBERG: Okay.

12 MR. HONIG: I, I want her just to compare the 1990  
13 filing with this draft of the '92 filing, which is NAACP  
14 Exhibit 59. With me?

15 WITNESS: Yeah. I, I'm not sure I'd call this '92  
16 document a draft. I think it's probably more in the nature of  
17 notes compiled by Dennis Stortz.

18 MR. HONIG: These notes of Dennis Stortz which --

19 WITNESS: Yes.

20 MR. HONIG: -- were sent to you?

21 WITNESS: That's right.

22 MR. HONIG: Okay. And look at Tom Koon's entries in  
23 both.

24 WITNESS: Okay.

25 MR. HONIG: And you will notice that in 1990 the

1 entry said, "Resume on file. Only person interviewed." And  
2 in -- and Mr. Stortz's notes from 1992 say, "Resume on file.  
3 Probably referred by employees," and then "No longer em-  
4 ployed."

5 Now, I'm going to ask a question about a number of  
6 similar entries, but I would just -- to speed things up,  
7 because I've got to go quickly, will identify some other names  
8 and ask that you compare these. Those names are: Carolyn  
9 Miller, who is on page 8 of NAACP 59 and on page 29 of tab 7,  
10 Church Exhibit 4; Wynn Bressler, who immediately follows  
11 Carolyn Miller in both documents; Sharisse Bush, who immedi-  
12 ately follows Wynn Bressler in both documents; Lucy Walker,  
13 who immediately follows Sharisse Bush in both documents.

14 MS. SCHMELTZER: Are we having testimony from  
15 counsel or are you --

16 MR. HONIG: I'm --

17 MS. SCHMELTZER: -- going to ask --

18 JUDGE STEINBERG: No, no. She --

19 MS. SCHMELTZER: -- a question?

20 JUDGE STEINBERG: I think Mr. Honig is asking the  
21 witness to look at these entries and he's combining them for  
22 -- that we can get through this quickly.

23 MR. HONIG: And as to each entry that I've just  
24 referred to, in the 1990 document it says, "Resume on file.  
25 Only person interviewed." And in the 1992 document that you

1 have before you, it says, "Resume on file. Probably referred  
2 by employees. No longer employed."

3 Now, we had testimony earlier concerning the dif-  
4 ference between a -- the term "walk-in" and the term "resume  
5 on file." Isn't that right?

6 WITNESS: Yes.

7 MR. HONIG: And the information -- the, the, the  
8 phrase "probably referred by employees" modifies the term  
9 "resume on file" as used by Mr. Stortz, does it not?

10 WITNESS: Yeah.

11 MR. HONIG: Okay. And it seems to suggest that this  
12 -- that these individuals did not come from a referral source,  
13 does it not?

14 MS. SCHMELTZER: Your Honor, I object. There's been  
15 no representation that they did come from a referral source.  
16 And, actually, employee referrals are a referral source and  
17 maybe we should have taken credit for something we didn't take  
18 credit for.

19 MR. HONIG: If I, if I may continue, Your Honor?

20 MS. SCHMELTZER: Well, I'd like my objection ruled  
21 on first.

22 JUDGE STEINBERG: I've lost track of the questions,  
23 frankly. State it again. Or state another one that -- yeah.  
24 State it again.

25 MR. HONIG: Okay. The, the, the question was the



1 phrase "probably referred by employee" modifies "resume on  
2 file." I think the witness answered yes. And in, and in fact  
3 it distinguishes -- in fact indicates that, that these refer-  
4 rals did not come from -- most likely did not come from a  
5 referral source outside the station.

6 MS. SCHMELTZER: And what I'm saying, Your Honor, is  
7 in table 3 we did not represent that they did come --

8 JUDGE STEINBERG: Okay.

9 MS. SCHMELTZER: -- from a referral --

10 JUDGE STEINBERG: I'll sustain the objection. If  
11 you would like to ask the witness what her interpretation of  
12 the language "probably referred by employees" is or actually  
13 was, you may do so.

14 MR. HONIG: Okay. What was your interpretation of  
15 that language?

16 WITNESS: Before I answer I'd like to correct a  
17 previous response. I think you asked me whether the term  
18 "probably referred by employees" modifies the term "resume on  
19 file." If by modifies you mean, you mean changes, I don't  
20 necessarily read it to change it. I think I understood your  
21 question to mean does it pertain to or further describe.

22 MR. HONIG: That, that is more accurate and I  
23 appreciate that.

24 WITNESS: Okay. You've now asked me what my under-  
25 standing is of the use of the term --